

IN FOCUS

Maryland State Board of Examiners in Optometry

President's Column

Fall 2002

Anthony M. Glasser, O.D.

This is my first opportunity to write a column as president of the Board. I had the good fortune to follow Dr. Beverly B. Miller, O.D. who is the kind of professional whom we should all be proud practices in our state. She represents optometry not only here in Maryland but on a national level as well. We miss her voice on the Board and we know that she will take on whatever cause she chooses next with the same passion and exuberance that made her the AOA Optometrist of the Year in 2001.

The Board has as its main purpose, the protection of the citizens of this state. One way this is accomplished is by promoting legislation and promulgating regulations that reflect new or emergent developments in the practice of optometry. It is a requirement for all Health Professional Boards to review their regulations that clarify statute, every eight years. The Board has completed this process and several changes have become effective. Included in this issue of the newsletter, is a summary of the changes. In addition, the Board appointed a task force to review, revise, and update the Optometry

Act. At this time, we propose to change the law so that the state of Maryland will no longer issue new licensure for dry or DPA licenses. Maryland will become a TPA only state and in so doing will join most of the country and we will also take another step toward licensure by endorsement. This change will not affect any optometrist already holding a dry or DPA license. These licensees will be able to renew for as long as they wish to practice in Maryland.

Today optometry is faced with many challenges to our profession. The latest problem to emerge is the selling of plano, cosmetically tinted contact lenses without a prescription at cosmetic stores and beachfront shops. During the summer, the Board was instrumental in developing a press release with the Department of Health and Mental Hygiene that included a health warning. The current provisions in the optometry statute do not allow the Board to go after these offenders. The Board has drafted a proposal for legislation which the Department of Health and Mental Hygiene will sponsor this session. The proposed change to the Replacement Contact Lenses

section of the statute will give the Board authority to take action against any one who sells or dispenses contact lenses without a valid and unexpired prescription. In addition, the Board will be able to levy hefty fines that may act as a deterrent to others.

This promises to be a challenging year for the optometry profession in our state and we have an ambitious agenda before us. Please do not hesitate to contact the Board with any concerns and remember to report any cases of suspicious contact lens sales, including those by mail, phone or Internet sources.

Anthony M. Glasser O.D.
Board President

Contact Lens Update



FDA Public Health Notification: Non-Corrective Decorative Contact Lenses Dispensed Without a Prescription

October 23, 2002

Purpose of This Notification

The Food and Drug Administration (FDA) continues to receive reports that non-corrective, decorative/cosmetic contact lenses are being distributed directly to consumers without a prescription or proper fitting by an eye care professional. These products present

significant risks of blindness and other eye injury if distributed without the involvement of a qualified eye care professional. Because of these safety concerns, FDA has cautioned consumers against using decorative contact lenses that have not been prescribed and fitted by a qualified eye care professional.

(<http://www.fda.gov/bbs/topics/NEWS/2002/NEW00846.html>)

FDA is requesting that healthcare professionals report adverse events resulting from the use of decorative/cosmetic lenses distributed to consumers without appropriate professional involvement.

Background

FDA is aware of injuries related to the use of contact lenses distributed directly to consumers and intended solely to change the appearance of the eye. These products can cause corneal ulcers, which can progress rapidly, leading to internal ocular infection if left untreated. Uncontrolled infection can lead to corneal scarring and vision impairment. In extreme cases, this condition can result in blindness and eye loss. Other risks associated with use of decorative/cosmetic contact lenses include conjunctivitis; corneal edema; allergic reaction; abrasion from poor lens fit; and reduction in visual acuity, contrast sensitivity, and other visual functions, resulting in interference with driving and other activities.

Because of the safety concerns these products present, FDA is taking a number of actions. In addition to communicating with the

public and with the healthcare community concerning the dangers of using decorative/cosmetic contact lenses, FDA has issued an import alert instructing FDA personnel and officials of the United States Customs Service to detain automatically all decorative contact lenses presented at United States ports of entry. FDA will also seize decorative contact lenses currently on the market in violation of federal law. FDA is responding separately to those eye care professionals who have individually contacted the agency expressing interest in the regulation of these products. In addition, in order to fully assess the extent of the problem associated with these products, this notification is requesting that all healthcare professionals continue to report adverse events associated with decorative/cosmetic lenses sold without a prescription.

Reporting Injuries and Complaints

If you become aware of a problem associated with these decorative/cosmetic contact lenses, please contact MedWatch, the FDA's voluntary reporting program. You may submit reports to MedWatch one of four ways: <http://www.accessdata.fda.gov/scripts/medwatch/>; by telephone at 1-800-FDA-1088; by FAX at 1-800-FDA-0178; or by mail to MedWatch, Food and Drug Administration, HF-2, 5600 Fishers Lane, Rockville, MD 20857.

Getting More Information

If you have questions about this Notification, please contact James F. Saviola, O.D., F.A.A.O., CDRH, Office of Device Evaluation, HFZ-460, 9200 Corporate Blvd., Rockville, MD 20850 or FAX 301-480-4201. Additionally, a voice mail message may be left at 301-594-0650 and your call will be returned as soon as possible.

The Board Needs You!

In addition to submitting reports to the FDA, please submit reports to the attention of the Board Administrator either by telephone, mail, e-mail, or fax, because the Board is developing a database.

The Board encourages optometrists to submit any information that you have about patients who have experienced adverse reactions as a result of wearing contact lenses that were purchased from any of the mail order companies or businesses illegally selling zero-powered lenses.

The Department Responds

During the summer of 2002, the Secretary issued a press release to alert teenagers because DHMH had issued warnings to several Ocean City businesses about selling the cosmetic lenses. All violations should be reported to the Board at (410) 764-4710.



Continuing Education News

Board Sponsors CE Program for TPA Certified Optometrists

The QEI Committee has developed a continuing education program for TPA certified optometrists. The activity consists of a multiple-choice test, six (6) patient record reviews, and three (3) adverse events assessments. The Board will award up to six (6) TPA hours for the completion of the program.

Continuing Education Website

ARBO (Association of Regulatory Boards of Optometry) continues to maintain the website that includes continuing education activities. This site is available to optometrists who can locate continuing education offerings quickly and efficiently. The site is continuously updated to add new meetings. The address is www.OptometryCE.org.

Renewal Requirements

Licenses for Maryland optometrists will expire on June 30, 2003. The following information summarizes Maryland's continuing education requirements for optometrists to renew their licenses. According to COMAR 10.28.02.06 (A), each optometrist is responsible for obtaining proof of hour credits and maintaining this documentation for inspection by the Board for 4 years after the date of renewal. Maryland requires up to 50 hours every 2 years. Hours taken must be within the time period of July 1, 2001 and June 30, 2003.

TPA – Optometrists shall complete 30 of 50 hours in the use and management of therapeutic pharmaceutical agents.

DPA – Optometrists shall complete 36 hours and 6 of those hours shall be in the use of diagnostic pharmaceutical agents.

CPR – is required for DPA & TPA optometrists and they are responsible for maintaining proficiency in current CPR procedures. The Board shall grant CE credit for CPR recertification. CPR is general CE education.

Practice Management – Maximum of 6 hours biennially – directly relating to patient care.

Correspondence and Internet Courses – All correspondence courses with a post-test, including internet courses will be accepted for continuing education credit up to a maximum of 12 hours in the two year period. Anyone with a physical handicap or other problem that precludes attendance at continuing education courses can request a waiver of the 12-hour limit from the Board.

Clinical Observation – Observation of clinical procedures (without a corresponding lecture) will be accepted for continuing education credit up to a **maximum of 6 hours in the two-year period**. The optometrist needs to obtain a letter verifying the number of hours from the person or facility where the observation is done.

Presenters of CE Programs - Licensees who present approved CE programs will be allowed continuing education hours for the preparation and presentation of the program as follows: for each hour of presentation, the licensee will be allowed one for preparation and one hour for presentation up to a maximum of 12 hours in the two year renewal cycle.

Individual Academic Papers – The Board will allow continuing education credit for a maximum of 12 hours in the two-year renewal cycle.

Renewal Fee Increase

The Board plans to promulgate regulations to increase the renewal fee in 2003. The last fee increase became effective ten years ago in January 1993. As published in the Code of Maryland Regulations 10.28.07.02, the current renewal fee is \$500. The new fee will increase to \$600. However, the Board will waive \$50 of that fee for the renewal cycle in June 2003, only. Therefore, the fee will be \$550.

The Board of Optometry is a 100% special funded entity, which means that revenue collected from licensing fees covers the operation costs of the Board. As most of you may recall, the Board was able to waive \$100 of the renewal fee for the 1999 and 2001 cycles due to a surplus in its special fund balance. Health Professional Boards are mandated by the legislature to maintain a maximum percentage of their operating budgets in their Special Fund balances. The Optometry Board's target percentage is 30%. Consequently, when the Special Fund balance exceeds the target, renewal fees are

lowered and conversely, when the balance is lower than the target, fees must be increased.

Maryland Health Care Commission

In addition to the renewal fee of \$550, optometrists will be assessed a \$34.00 fee by the Maryland Health Care Commission. The Maryland Health Care Commission (MHCC) assesses a fee on all payors, hospitals, nursing homes and health care practitioners. Additional information regarding this fee can be found on the MHCC website at www.mhcc.state.md.us. Health professionals licensed by other Health Professional Boards have been assessed the fee for several years, however optometrists had not been included. The Optometry Board will collect the renewal and user fees and will transfer the user fee to the Commission. Licensees will receive more information about the Commission and the user fee with the renewal mailing in the spring of 2003.

LEGISLATION 2003



The Task Force to Revise the Optometry Statute has completed its review, update, and revision of the practice act. The Maryland Optometry Act has not gone through an extensive revision since its enactment. The Board plans to introduce this legislation during this year's legislative session. This has been a tremendous effort and the Board wants to thank the members of the task force who worked tirelessly and diligently to complete this project. Kudos to the following members: Anthony M. Glasser, O.D., Board President, Beverly B. Miller, O.D., Past Board President and Task Force Chair, Alan Brull, O.D., Board Member, Jane E. Pilliod, Board Counsel, Anna Jeffers, Legislation/Regulations Specialist, Boards and Commission Program, Shari Strier, O.D., QEI Committee member, Patricia G. Bennett, Board Administrator, and Anne Kenney, Licensing Coordinator.

Common Complaints

The Board has received several complaints regarding contact lens prescription release. The Board urges licensees to be mindful of and comply with patient requests as it relates to their preference or selection of contact lenses. Additionally, remember that once a prescription has been determined, the patient is legally entitled to a copy of his or her contact lens prescription.

Disciplinary Activities

During the past fiscal year, which ended on June 30, 2002, the Board received 17 new complaints of which one (1) was not under the Board's jurisdiction. Of the remaining 16 complaints, there were no formal actions taken. Nine (9) of the cases were closed with no violation of the statute. Five (5) letters of either admonishment or education were issued and two (2) pending complaints were carried into this fiscal year.

Regulations

As part of the state's requirement, the Board completed the review of its regulations during the past year. Regulations are reviewed and evaluated every 8 years in order to ensure that they are necessary, supported by statutory authority and judicial opinions, and are not otherwise obsolete or in need of amendments. Listed below is a summary of the regulations that have been repealed or amended. For the complete text, visit the Board's website at www.mdoptometryboard.org and follow the instructions to access the regulations or contact the Board office at (410) 764-4710 to request a copy of the current regulations.

10.28.01 Organization of the Board: Officers and Duties

This regulation was repealed because the language was obsolete and no longer reflected current Board practices.

10.28.05.03.1 Inactive Status and Reinstatement of Expired Licenses

The regulation amends the provision to permit the Board to reinstate the license of an optometrist whose license has been expired for 5 or more years and **has not practiced optometry only if the optometrist passes an examination recognized by the Board and submits proof of continuing education.**

10.28.05.03.2 Fee Schedule

The Board no longer administers an examination therefore the \$150 fee was deleted.

10.28.08.01 Partial Waiver of Application

The language **may not have failed an examination given by the Board of Examiners in Optometry within 5 years before applying for licensure** was deleted.

10.28.04 Rules of Procedure for Board Hearings

The entire regulation was repealed and a new regulation was promulgated.

10.28.09 Advertising

Facsimile and the Internet are types of solicitation that were added to the statute in which optometrists are prohibited from engaging when the solicitation amounts to fraud, intimidation, undue influence on the part of an optometrist.

10.28.11.01 Use of Diagnostic Pharmaceutical Agents

References to applying for and completing certain requirements for DPA certification within outdated time periods were deleted.

10.28.11.02 Therapeutic Pharmaceutical Agents

The Board will now accept **110 hours of Board approved TPA continuing education** in lieu of a course which includes an examination. The regulation that provides termination dates that have expired regarding documentation of costs of treatment and data collection for TPA certified optometrists was repealed.

10.28.15 Compelling Purpose Disclosure

This new regulation allows compelling purpose disclosure of information to other state agencies or law enforcement, obtained during an investigation.

ASK THE BOARD?

The Board received correspondence from the Attorney General's office who had advised an optometrist regarding the requirement of a trader's license. According to the Attorney General, there is nothing in the optometry statute that precludes the additional requirement of obtaining a trader's license, to the extent that the business of the optometrist involves the sale of goods. The Board's response to this question is that optometrists should contact their local jurisdiction to determine whether a trader's license is required in their area of practice.

STRATEGIES IN MINIMIZING CONTACT LENS COMPLICATIONS

The contact lens practitioner's goal is to prescribe a contact lens that will have minimal mechanical and physiological impact on the cornea and lids while providing the maximum optical correction. Subscribing to this philosophy will maximize your patient's eye health, comfort, and sight. The following are tips to help achieve these goals.

*Recommend options based on your contact lens examination. If the risks outweigh the benefits, either do not prescribe or modify the patients' wearing schedule, lens modality, or frequency of replacement.

* Treat all ocular surface; lid and corneal conditions first, and then prescribe the appropriate lens that best suits your patient's eye.

* **EDUCATE AND REEDUCATE** about the necessity of follow up care and the importance of replacement of contact lenses at prescribed intervals.

* Doctors should be available 24/7 via phone or by office hours.

* Make sure each contact lens patient has an updated pair of glasses.

By following these tips you will help minimize the risks of your patients having serious contact lens complications.

APPOINTMENTS

The Board is currently functioning with the full complement of its membership. The Board consists of 7 members. Five (5) of the members are licensed optometrists and two (2) are consumer members. This summer, Governor Parris N. Glendening filled the Board's one vacancy. He appointed Ms. Lillie Price Wesley, Esquire, as a consumer member to the Board. Ms. Wesley is an attorney in private practice in Howard County and has affiliation with several civic, professional, and service organizations. She replaced Ms. Laura C. Whitfield who served on the Board since 1994 and as secretary since March 2000. The Board wants to thank Ms. Whitfield for the thoughtful and insightful comments that she contributed from the consumer's perspective.

Board Members

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David D. Reed, O.D. 5/31/06
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Lillie Price Wesley 6/30/06
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